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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,596	10/27/2003	Godfrey J. LeBoeuf JR.	NRL898	1100

7590 08/11/2004  
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EXAMINER


PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/693,596	<b>Applicant(s)</b> LEBOEUF, GODFREY J.	
	<b>Examiner</b> David J Parsley	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **Detailed Action**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent No. 4,513,478 to Trahan.

Referring to claim 1, Trahan discloses a crab meat extracting apparatus comprising, a planar base – at 12, having a top side – see figure 1, a crab support member – at 14,18, being attached upon the top side of the planar base member – at 12 – see

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figure 1, a tray – at 38, being removably disposed upon the planar base member – at 12 – see figure 1, and a crab compressing assembly – at 20-36, including a crab compressing plate – at 34,36, being hingedly attached – proximate 16, to the crab support member – at 14,18, and being removably disposed upon the crab support member for compressing a shelled crab between the crab support member and the crab compressing plate – see for example figures 1-4.

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Referring to claim 2, Trahan discloses the crab support member – at 14, is a plate – at 16, having a semi-circular main portion – at the upper portion of 14, and also having planar end portions – proximate 18 and at the bottom of 14 and at the sides of 14, which are fastened upon the top side of the planar base member – at 12 – see for example figures 1-4.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trahan as applied to claim 2 above, and further in view of U.S. Patent No. 3,388,422 to Benoit.

Referring to claim 3, Trahan further discloses a tray – at 38, with a bottom wall and a side wall – see for example figure 1. Trahan does not disclose the tray has a bottom, side and end wall. Benoit does disclose the tray – at 55, has a bottom wall – at the bottom

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of the base of 55, a side wall – see figure 1 and a end wall – at the upper side of the base portion as seen in figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Trahan and add the tray with bottom, side and end walls of Benoit, so as to allow for the tray to completely contain the crabmeat during use.

Referring to claim 4, Trahan as modified by Benoit discloses the crab compressing plate – at 34,36, is longitudinally curved and has an end which is hingedly attached to one of the planar portions of the planar end portions of the crab support member – at 14 – see for example figures 1-4, the crab compressing plate – at 34,36, being disposed generally parallel to the crab support member upon the crab compressing plate being disposed upon the crab support member – see for example figures 1-4 of Trahan.

Referring to claim 5, Trahan as modified by Benoit further discloses the crab compressing assembly includes a bracket – at 22,24, being attached upon the top side of the planar base member – at 12 – see figure 1, and further including a handle assembly – at 26, being pivotally mounted upon the bracket member – proximate 32, and also including a roller member – at 20, being mounted upon the handle assembly and being rollably engaged upon the crab compressing plate – at 34,36 – see for example figures 1-4 of Trahan.

Referring to claim 6, Trahan as modified by Benoit further discloses the bracket member includes an elongate main portion – at 22,24, and also includes end portions – at the ends of 22,24, being angled relative to the elongate main portion and being disposed generally perpendicular to the planar base member – at 12 – see for example figures 1-4

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and having holes being disposed therethrough – proximate 28 and 32 – see for example figures 1-4 of Trahan.

Referring to claim 7, Trahan as modified by Benoit further discloses the handle assembly includes a pair of elongate handle support members – at 28, having angled first end portions each of which is pivotally disposed in the hole of a respective end portion of the bracket member – at 22,24, and also including a handle support cross member – at 32, being attached at second ends of and extending between the elongate handle support members – at 28, and also includes a roller support cross member – at 30, being attached intermediate of the first end portions and the second ends of and extending between the elongate handle support members – at 28, and further includes a handle member – at 33, being disposed about the handle support cross member – at 32, the roller member – at 20, being rollably disposed about the roller support cross member – at 30 – see for example figures 1-4 of Trahan.

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to crab/crustacean meat extracting devices in general:

U.S. Pat. No. 1,831,448 to Henry et al. – shows shellfish opening device

U.S. Pat. No. 2,517,899 to Logan – shows crab opening device

U.S. Pat. No. 3,486,188 to Senick – shows crab opening device

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U.S. Pat. No. 3,696,465 to Rossnan – shows crab opening device

U.S. Pat. No. 3,921,256 to Huebotter – shows crab opening device

U.S. Pat. No. 4,255,835 to Demulder – shows shellfish opening device

U.S. Pat. No. 4,316,306 to Huebotter – shows crab opening device

U.S. Pat. No. 4,393,545 to O'Donnell – shows shellfish opening device

U.S. Pat. No. 4,802,260 to Fletcher – shows crab opening device

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U.S. Pat. No. 6,273,807 to Shelton – shows shellfish opening device

GB Pat. No. 2025754 – shows shellfish opening device

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

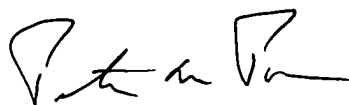
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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David Parsley  
Patent Examiner  
Art Unit 3643



**PETER M. POON**  
**SUPERVISORY PATENT EXAMINER**

8/6/04

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